

1
2
3
4
5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT TACOMA

8 JEROME CEASAR ALVERTO,

9 Petitioner,

10 v.

11 MICHAEL OBENLAND,

12 Respondent.

No. 3:13-cv-5490 RJB-DWC

REPORT AND RECOMMENDATION
Noted for: September 15, 2017

13 Petitioner Jerome Ceasar Alverto requests that this Court dismiss his currently stayed
14 habeas corpus petition without prejudice in light of several state court actions currently pending
15 in Washington state courts. Dkt. 73. Respondent is not opposed to the dismissal. Dkt. 74.

16 **DISCUSSION**

17 A petitioner may voluntarily dismiss an action without leave of court before service by
18 the adverse party of an answer or motion for summary judgment. Fed. R. Civ. P. 41(a).
19 Otherwise, an action shall not be dismissed except upon order of the court and upon such terms
20 and conditions as the court deems proper. *Id.* This action has been stayed since August 19, 2013
21 to allow petitioner an opportunity to exhaust his state court remedies. Dkt. 22. Respondent has
22 not filed an answer or motion to dismiss. In addition, Respondent does not oppose the dismissal
23 without prejudice. Dkt. 74.
24
25
26

1 **CONCLUSION**

2 Based on the foregoing, the undersigned recommends that the Court grant petitioner's
3 motion to voluntarily dismiss his petition without prejudice.

4 Pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b), the parties shall have
5 fourteen (14) days from service of this Report and Recommendation to file written objections.
6 See also Fed. R. Civ. P. 6. Failure to file objections will result in a waiver of those objections for
7 purposes of appeal. *Thomas v. Arn*, 474 U.S. 140 (1985). Accommodating the time limit
8 imposed by Rule 72(b), the Clerk is directed to set the matter for consideration on **September**
9 **15, 2017**, as noted in the caption.
10

11 **DATED** this 25th day of August, 2017.

12
13 

14 David W. Christel
15 United States Magistrate Judge
16
17
18
19
20
21
22
23
24
25
26